

**Notice of Allowability****Application No.**

10/551,998

**Examiner**

YONG CHU

**Applicant(s)**

SCHIEMANN ET AL.

**Art Unit**

1626

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 01/02/2009.
2. ☒ The allowed claim(s) is/are 13, 14, 19, and 24 (renumbered as 1-4).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 01/02/2009
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 03/06/2009
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_.

## **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/02/2009 has been entered. Upon entering the submission, claims 10-15, 19 and 24 are currently pending in the instant application. Applicants have authorized the Examiner to cancel claims 10-12 and 15 through Examiner's amendment. Therefore, claims 13, 14, 19, and 24 are under examination on the merits.

### ***Information Disclosure Statement***

Applicants' Information Disclosure Statement, filed on 01/02/2009 has been considered. Please refer to Applicant's copy of the PTO-1449 submitted herewith.

### ***Response to RCE Submission***

#### **Claim Objection**

The claim objection is moot, because Applicants have amended the claims, and search and examination are expanded to previously non-elected subject matter.

#### **Claim rejection under 35 U.S.C. § 102(b)**

Applicants cancelled the generic claim 1. Therefore, the rejection is moot.

#### **Claim rejection under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph**

Applicants cancelled the generic claim 1. Therefore, the rejection is moot.

### ***Examiner's amendment***

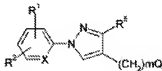
An examiner's amendment to the record with the authorization by Applicants' representative Csaba Hunter dated 03/05/2009 appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

**Delete** claims 10-12 and 15.

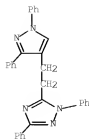
### ***Reasons for Allowance***

The present invention is directed to the compounds according to claim 19 related



to compounds of formula , wherein **X** is -CH, a pharmaceutical composition comprising a compound thereof, and a process for preparing a pharmaceutical composition thereof.

The closest prior art of record is *Heterocycles*, 1995, 40(2), p.515-520 by Caramella et al., ("Caramella et al.").



Caramella et al. disclosed a specific compound (CAS RN

165963-83-7). This compound is patentably distinct from all the compounds in claim 19, because the Caramella compound has **Q** as 1,3-diphenyl-1,2,4-triazole moiety, while none of the compounds in claim 19 has such moiety **Q** as triazole moiety.

### ***Conclusions***

Claims 13-14, 19, and 24 are allowed.

### ***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Chu, Ph.D., whose telephone number is 571-272-5759. The examiner can normally be reached on 7:00 am - 3:30 pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Status Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Yong Chu/  
Patent Examiner  
Art Unit 1626